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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/500,633

07/30/2004

Ari Hottinen

61253.00023

3037

32294

7590

03/07/2008

SQUIRE, SANDERS & DEMPSEY L.L.P.

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EXAMINER

AHN, SAM K

ART UNIT

PAPER NUMBER

2611

MAIL DATE

DELIVERY MODE

03/07/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/500,633	<b>Applicant(s)</b> HOTTINEN ET AL.	
	<b>Examiner</b> SAM K. AHN	<b>Art Unit</b> 2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 31-34, 36-59 and 73-75 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 31-34, 36-59 and 73-75 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>021508</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments, see p.20, filed 10/11/07, with respect to all rejected claims have been fully considered and are persuasive. The rejection of the claims has been withdrawn.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 58 and 59 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims that recite nothing but the physical characteristics of a form of energy, such as a frequency, voltage, or the strength of a magnetic field, define energy or magnetism, per se, and as such are nonstatutory natural phenomena. O'Reilly, 56 U.S. (15 How.) at 112-14. Moreover, it does not appear that a signal of a transmission code matrix of different form of matrix falls within any of the categories of patentable subject matter set forth in 101.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 31-34,36-59 and 73-75 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 31,53,57 and 58 recite "...wherein both the matrix dimensions of said transmission code matrix are greater than the corresponding matrix dimensions of said transformed transmit diversity code matrices...". It is unclear from the recitation of which limitation "both" is referring to. The "transmission code matrix" initially recited in the preamble does not clarify whether it is a single matrix or two matrices or more to be referred to as "both", and furthermore, it is unclear if "both" is to further describe the "matrix dimensions". Therefore, the claims fail to particularly point out and distinctly claim the subject matter.

Claims 33 and 55 recite the limitation "linear transformations" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim. "Linear transformation" is previously recited, however, does not recite "linear transformations".

Claim 38 recites the limitation "the first transformed" and "the second transformed" in lines 1-3. Claim 39 recites the limitation "the orthogonal transmit diversity code matrices" lines 2-3. Claims 41 and 42 recite the limitation "said conversion" line 1.

There is insufficient antecedent basis for this limitation in the claims.

### ***Claim Objections***

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4. Claims 32,40,46 and 54-56 are objected to because of the following informalities:

In claim 32, line 9, "construct at" should be "construct said at", line 11, "a transmission code matrix using at" should be "said transmission code matrix using said".

In claim 40, define "T".

In claim 46, line 2, "wherein the" should be "wherein the at least".

In claim 54, line 9, "construct at" should be "construct said at", line 12, "using at least" should be "using said at least".

Claims 55 and 56 directly depend on claim 54.

Appropriate correction is required.

**Conclusion**

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lee et al. US 2004/0081263 A1 teach transmit diversity system implementing linear transformation.

Taylor et al. US 2003/0198303 A1 teach transmit diversity system generating matrix and implementing linear transformation.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sam Ahn whose telephone number is (571) 272-3044. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mohammad Ghayour can be reached on (571) 272-3021. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Sam K. Ahn/  
Primary Examiner, Art Unit 2611

3/12/2008